

REMARKS

The Examiner is thanked for the Official Action mailed July 29, 2008. This Amendment and Request for Reconsideration is intended to be fully responsive thereto.

Claims 1-8, 11 and 14 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 3, 6, 8, 11 and 14 have been amended to overcome the examiner's rejections. No new matter has been added.

Claims 1, 2 and 14 were rejected under 35 USC 102(b) as being anticipated by Michel (FR 2 730 772). Applicant respectfully disagrees.

Anticipation under Section 102 requires that a prior art reference disclose every claim element of the claimed invention. *E.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1574, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986). Anticipation must be found in a single reference. *E.g., Studiengesellschaft Kohle, m.b.H. v. Dart Indus., Inc.*, 726 F.2d 724, 726-27, 220 U.S.P.Q. 841 (Fed. Cir. 1984). The absence of any element of the claim from the cited reference negates anticipation. *E.g., Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 U.S.P.Q. 1264 (Fed. Cir. 1984).

The examiner erroneously interprets the teeth 22 formed on the legs 17 of the second element 2 of Michel as a "fusion interface". Defending his position, the examiner argues that an inventor can be his/her own lexicographer.

However, MPEP stating that one is free to be his or her own lexicographer refers to the applicant not to the prior art. In any case, MPEP clearly states that “a patentee or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings *if the written description clearly redefines the terms.*” (emphasis added) (MPEP 2173.05(a)III. Michel clearly defines (both in the specification and drawings) the element 22 as “a series of waves or grooves of which the crests are oriented vertically, thus defining teeth or racks 22 of which the teeth are aligned in the longitudinal horizontal direction.” (see page 7 of the English language translation of FR 2 730 772 to Michel). In other words, Michel does not describe the element 22 as a “fusion interface”, i.e. the interface formed by fusion which is defined as “the act or procedure of liquefying or melting together by heat”. Therefore, Michel fails to disclose a fusion interface provided between the connecting element (22) and the proximal retaining element (20P) at locations offset laterally from an axis of the jacket (18).

The examiner further erroneously argues that as the first and second elements 1 and 2 of Michel are made of plastic material, “if one applies sufficient heat to Michel’s elements 1 and 2, these elements inherently melted in the same manner as applicant’s molded material.” In other words, the examiner considers a hypothetical scenario of modified device of Michel. As argued above, anticipation under Section 102 requires that a prior art reference disclose every claim element of the claimed invention. Following the examiner’s line of reasoning, any two metal parts fastened together (such as by threaded fasteners) could be interpreted as “welded” because if one applies sufficient heat to metal parts they would melt and weld

together. Obviously, those skilled in the art would not possibly interpret metal parts fastened together by threaded fasteners as welded.

Clearly, Michel does not disclose or even suggest a “fusion interface” between the elements 1 and 2. Contrary to the present invention as recited in claim 1, the mutual fixing of the first and second elements 1 and 2 of Michel is in the form of serrations (24) in the first element engaging with internal serrations (22) on the second element, while the locking of the two elements is achieved by a projection (25) on the first element 1 engaging with a slot (26) in the second element 2, not by fusion (i.e. melting together) of the elements 1 and 2.

For these reasons, Applicant respectfully submits that the applied document, *i.e.*, French Patent 2,730,772 to Michel, does not meet this standard of anticipation. Therefore, the rejection of claims 1, 2 and 14 under 35 U.S.C. 102(b) over Michel is improper.

Claims 1-8, 11 and 14 were rejected under 35 USC 103(a) as being unpatentable over Michel ‘772 in view of Chiang (US 6,179,669). Applicant respectfully disagrees.

Regarding claim 1: The examiner concedes that Michel does not teach the process of welding including ultrasonically welding of the connecting element 1 to the first retaining element 2. The examiner then alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use welding including ultrasonically welding in order to connect Michel’s connecting element 1 to Michel’s first retaining element 2 as taught or suggested by Chiang.

However, the invention of Michel is titled “adjustable fixing piece on sleeve of control cable for heating and air conditioning units in motor vehicles” (emphasis added). Specifically, the first element (1) and the second element (2) cooperate with each other so as to allow the positioning of the first element in a choice of different positions with respect to the second element according to a axial direction of the transmission. The mutual fixing of both elements of Michel is in the form of serrations (24) in the first element engaging with internal serrations (22) on the second element. The locking of the two elements is achieved by a projection (25) on the first element engaging with a slot (26) in the second element. Such an arrangement allows for adjustable positioning of the first element with respect to the second element. Clearly, if the first element (1) is welded to the second element (2), as suggested by the examiner, the device of Michel would no longer be adjustable.

The examiner further alleges that “if one having ordinary skill in the art uses the welding to connect Michel's elements 1 and 2 together, one does not render Michel's device to be inoperative since Michel's cable 6 is still slid within the jacket 8 to transmit the motion from the module element (FIG. 2 of Att.) to another element, such as, a wall of a heating/ventilation or air conditioning apparatus of an automobile.” However, MPEP 2145.X.D. clearly states that “proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference” (emphasis added), not just inoperative. Those skilled in the art would realize that the proposed modification of Michel in view of Chiang would render Michel unsatisfactory for its intended purpose (i.e. adjustable fixing piece on sleeve of control cable), which is prohibited.

Furthermore, the examiner alleges that as Michel teaches to form the elements 1 and 2 of molded plastic material, and as it is well known to use ultrasonic welding to connect two molded plastic elements together as evidenced by Chiang, "the combination of Michel and Chiang is more likely to be obvious modification since it is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement." *KSR, supra*."

Contrary to the examiner's allegations, the Supreme Court decision of *KSR Int'l Co. v. Teleflex Inc.* clearly states that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." (emphasis added) *KSR*, 550 U.S. ____ (Apr. 30, 2007), (slip. op. at pp. 14-15). The examiner fails to explain the reasoning that leads to a legal conclusion of obviousness when rejecting claims on that ground. Clearly, the prior art provides no logical reason, suggestion or motivation to combine teachings of Michel (disclosing relatively adjustable elements 1 and 2) and Chiang (disclosing fabrication techniques for the receptacle body 52 of an electrical power socket for receiving a male plug, including ultrasonic welding of pre-molded sections of the receptacle body 52). Moreover, the examiner's modifications to

the cited references would result in “distortions caused by hindsight bias”. *KSR*, slip. op. at p. 1).

Thus, the prior art provides no apparent, logical reason, suggestion or motivation to mutually fix the first and second elements of Michel by fusion (or welding), and teaches away from the present invention. Consequently, the rejection of claims 1-8, 11 and 14 under 35 U.S.C. 103(a) over Michel and Chiang is improper.

Further regarding claim 4: In addition to the above regarding the patentability of claim 1, the examiner erroneously alleges that Michel’s connecting element 1 and the proximate retaining element 2 comprise complementary welding faces 24 and 22 (FIGS. 5 and 8), each provided with fusible ribs being substantially perpendicular to the ribs 22 borne by the welding face 22 of the proximate retaining element 2, and wherein the fusion interface 22 is formed between the ribs 25 and 22 of the complementary welding faces 24 and 22.”

First, as argued above, Michel fails to disclose fusion interface formed between the ribs of the complementary welding faces. Furthermore, as clearly illustrated in Figs. 1, 2, 3, 6 and 7 of Michel, the teeth (or ribs) 22 and 24 (as the element 25 of Michel is not a rib but one of two elastic pins shown in detail in Figs. 1, 8 and 9) are parallel to each other and not perpendicular, as recited in claim 4. Therefore, the rejection of claim 4 under 35 U.S.C. 102(b) is improper as claim 4 introduces additional limitations and further defines the present invention over the prior art.

Further regarding claim 6: In addition to the above regarding the patentability of claim 4, the examiner erroneously alleges that the welding face 22 of the second element 2 forms a base of the channel 18, and that the ribs 22 of the second element 2 extending longitudinally.

First, as argued above, Michel fails to disclose fusion interface is formed between the ribs of the complementary welding faces. Second, Michel describes the element 2 as forming the channel 18 which includes two vertical legs 17 connected to a base 11 (see page 7, lines 11-13 of the English language translation of FR 2 730 772 to Michel). As clearly disclosed and illustrated in Figs. 2, 3 and 5-7 of Michel, the teeth (or ribs) 22 are formed on the legs 17 of the channel 18 of the element 2, not the base 11 thereof. Third, as further illustrated in Figs. 2, 3 and 5-7 of Michel, the teeth (or ribs) 22 formed on the legs 17 of the element 2 are extending vertically, not longitudinally as recited in claim 6. The word “longitudinally” is defined as “placed or running lengthwise”. Clearly, those skilled in the art would not interpret the teeth 22 of Michel vertically extending perpendicular to the sheath 5 and the cable 6 as extending longitudinally. Therefore, the rejection of claim 6 under 35 U.S.C. 102(b) is improper as claim 6 introduces additional limitations and further defines the present invention over the prior art.

Further regarding claim 7: In addition to the above regarding the patentability of claim 6, the examiner erroneously interprets elements 28 and 30 of Michel as complementary welding shoulders wherein the fusion interface is formed therebetween.

First, as argued above, Michel fails to disclose any fusion interface formed between the elements 1 and 2. Second, Michel describes the element 28 as one of two elastic tabs (see

Fig. 9), while the element 30 as a metallic plate being fastened by overlapping one of the legs 17 of the second element 2. In other words, the metallic plate 30 is not part of the second element 2. Moreover, the elastic tab 28 (Fig. 9) and the metallic plate 30 (Fig. 10) are parts of the different embodiments of Michel. As a result, the elastic tab 28 and the metallic plate 30 of Michel are not complementary and cannot possibly form fusion interface therebetween. Therefore, the rejection of claim 7 under 35 U.S.C. 102(b) is improper as claim 7 introduces additional limitations and further defines the present invention over the prior art.

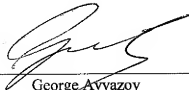
Further regarding claim 8: In addition to the above regarding the patentability of claim 7, the examiner erroneously alleges that the ribs 22 of the second element 2 are offset laterally with respect to the sheath (or jacket) 5. However, claim 8 recites that the ribs and the welding shoulders of the proximal retaining element are offset laterally with respect to the axis of the jacket, not just the jacket, as interpreted by the examiner. Thus, Michel fails to disclose the ribs (which are formed on the base of the channel formed by the proximal retaining element) and the welding shoulders of the proximal retaining element are offset laterally with respect to the axis of the jacket. Therefore, the rejection of claim 8 under 35 U.S.C. 102(b) is improper as claim 8 introduces additional limitations and further defines the present invention over the prior art.

Further regarding claim 11: In addition to the above regarding the patentability of claim 4, the examiner erroneously interprets one of the walls 12 of the base 10 of the second element 2 of Michel (shown in detail in Fig. 5) as a shell forming a housing for the securing

block of the present invention. As clearly illustrated in Fig. 2 of Michel, the connecting means 7 of the cable 6, interpreted by the examiner as the securing block, is disposed away from the base 10 of the second element 2 (that includes the wall 12). Those skilled in the art would not possibly interpret the wall 12 of the base 10 of the second element 2 of Michel as housing the connecting means 7 of the cable 6. Therefore, the rejection of claim 11 under 35 U.S.C. 102(b) is improper as claim 11 introduces additional limitations and further defines the present invention over the prior art.

It is respectfully submitted that claims 1-8, 11 and 14 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted,



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